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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/465,006 12/16/99 HECKMEIER

M MERCK-2073

023599 IM22/0815  
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EXAMINER

WU, S

ART UNIT

PAPER NUMBER


1756

DATE MAILED:

08/15/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

 <b>Office Action Summary</b>	<b>Applicati n No.</b> 09/465,006	<b>Applicant(s)</b> HECKMEIER ET AL.	
	<b>Examin r</b> Shean C Wu	<b>Art Unit</b> 1756	

-- Th MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2001.
- 2a) ☐ This action is FINAL.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-25 is/are rejected.
- 7) ☒ Claim(s) 14,20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-18 and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19521483.

The reference discloses an active matrix (AM) liquid crystal display consists of an AM diode arrangement together with a pair of parallel substrates enclosing a nematic liquid crystal medium consisting of (A) a compound of formula (I) with positive dielectric anisotropy and (B) a compound of formula (II) with negative dielectric anisotropy. R1 and R2 = alkyl, alkoxy, alkenyloxy, oxaalkyl or alkenyl with 1-15C; R3 = X-Q or as R1; Q = CF2, OCF2, OCFH, OCH2CFH, OCHFCF2, OCF2CF2 or a single bond; X = F or Cl; Z1 and Z2 = -COO-, -CH2CH2- or a single bond; rings A1 and A2 = 1,4-cyclohexylene or 3L3, 5L4-phenyl-1, 4-ene; rings A3 and A4 = 1,4-cyclohexylene or 2L5, 3L6-phenyl-1, 4-ene; L1-L4 = H or F; o and m = 0 or 1; and n = 1 or 2. See the formulae Ib, Id, If, Ii, Ila, I Ib and III in the specification. The concentration ranges of the formulae I, II and III are disclosed on page 8, lines 45-53. See Examples (1-5, 7 and 14), which comprise the present medium having positive dielectric and optical anisotropy, value within the claimed invention. Therefore, the reference anticipates the claimed invention.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19521483 in view of WO9621881.

DE '483 differs from the claim in that the claim has a matrix of three-pole active switches. WO '881 discloses a matrix of three-pole active switches in active matrix display device. Because the liquid crystal medium is disclosed by DE '483 and used in active matrix display devices, it would have been obvious to those skilled in the art to utilize WO '881 teaching by applying a matrix of three-pole active switches to arrive at the claimed invention.

***Claim Objections***

5. Claim 20 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n).

6. Claims 14 and 21 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 11. When two claims in an application are duplicates or else are so close in content that

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they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

7.

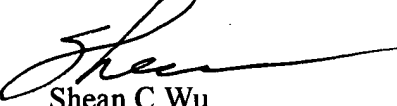
***Response to Arguments***

8. Applicant's arguments with respect to claims 11-25 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shean C Wu whose telephone number is 703-308-3956. The examiner can normally be reached on Monday-Friday 9:30 -6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 703-308-2464. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-3429 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Shean C Wu  
Primary Examiner  
Art Unit 1756

scw  
August 13, 2001